

Fair Political Practices Commission

To: Chairman Getman; Commissioners Downey, Knox, Scott and Swanson

From: Luisa Menchaca, General Counsel
Lawrence T. Woodlock, Senior Commission Counsel

Subject: Pending Litigation

Date: October 23, 2001

1. *California ProLife Council PAC v. Karen Getman et al.*

On October 19, 2000, the court denied plaintiff's motion for preliminary injunction and dismissed seven of the ten counts in the complaint. Plaintiffs dismissed the Sacramento County District Attorney, and the remaining defendants – the FPPC and the Attorney General – answered what was left of the complaint. The parties next reached a stipulation for further partial dismissal, leaving only the two counts pending. It is expected that these two counts will be presented to the court for final adjudication in cross motions for summary judgment filed late in 2001 or in January of 2002. Trial, if necessary, is set for June 24, 2002.

2. *Institute of Governmental Advocates, et al. v. FPPC et al.*

The Institute of Governmental Advocates filed a Petition for Writ of Mandate with the Third District Court of Appeal, asking the court to stay enforcement of Section 85702. Added to the Act by Proposition 34, this provision bars lobbyists from making contributions to candidates and officeholders whom the lobbyists are registered to lobby. The Court of Appeal denied the Petition, and the action was refiled in federal district court, which decided the matter on cross motions for summary judgment. On September 17, District Judge Frank Damrell granted the Commission's motion and denied Plaintiffs' cross motion. The district court entered judgement for the FPPC and plaintiffs have since filed a notice of appeal in the Ninth Circuit Court of Appeals. The Commission will be defended on appeal by the office of the Attorney General.

3. *Henry F. Ramey v. FPPC*

Plaintiff sought a declaration in Sacramento County Superior Court that the Commission acted beyond its power in adopting Regulations 18704.2, 18705.1, and 18705.2 during the Commission's Phase 2 overhaul of its conflict of interest regulations. The complaint alleged that these revised regulations reduce the obligations of public officials below a threshold established by statute and

governing case law. The Commission filed a motion for summary judgment, which was granted on September 25, 2001. A final order was filed and endorsed on October 12, 2001.

4. *Danny L. Gamel et al. v. FPPC*

On September 11, 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of Sections 84300 – 84302 (four counts). Plaintiffs have contested this decision by moving for a writ in the Fresno County Superior Court. A hearing has been set for November 20, 2001. The Commission will be represented by the office of the Attorney General.